IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.K.MISRA
and
THE HONOURABLE MR.JUSTICE K.MOHANRAM

WRIT APPEAL No.1440 of 2006

S.Sujatha, W/o.Ramesh ... Appellant/ Petitioner

vs.

1.The Education Officer,
Corporation of Chennai,
Ripon Building,
Chennai-600 003.

2.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Education,
Fort St.George,
Chennai-600 009. ... Respondents/ Respondents

Writ appeal under Clause 15 of Letters Patent against the order of the learned single Judge dated 13.09.2006 passed in W.P.No.15274/2002.presented under article 226 of Constitution of India to issue a writ of certiorarified Mandamus calling for the records pertaining to the proceedings in Ka.Thu.Na.Ka.No.B11/5488/2001 dated 2.8.2001 on the filed of the first respondent and quash the same and furhter direct the respondents to grant employment on compassionate grounds in accordance with law.

For Appellant ... Mrs.T.Ananthi

For Respondent No.1 ... Mr.V.Bharathidasan

For Respondent No.2 ... Mr.A.Arumugam, Addl.Govt.Pleader.

JUDGMENT

P.K.MISRA,J

This writ appeal has been filed against the order of the learned Single Judge dismissing the Writ Petition No.15274/2002 filed by the present appellant. Such a writ petition was filed by the appellant

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for quashing the order dated 02.08.2001 in proceedings No.Ka.Thu.Na.Ka.No.B11/ 5488/2001 and for issuing a direction to the respondent to employee the appellant on compassionate ground.

2.The appellant was adopted by one S.Pattammal. The factum of such adoption was recited in the registered Will dated 11.11.1989. The aforesaid S.Pattammal was working as a teacher in Ekangipuram Corporation Middle School. After death of the aforesaid employee, the probate of the Will was obtained and on the basis of such probate, subsequently the terminal benefits for the deceased employee were made available. The appellant had also filed an application for employment on compassionate ground. It appears that such application was rejected on 14.04.1997. Subsequently the appellant filed further applications and one such application was again rejected on 02.08.2001 and thereafter, the writ petition was filed. The learned single Judge has dismissed the writ petition inter alia on the ground that the application for appointment on compassionate ground had been made belatedly. It was further observed that such an employment is only available to person in indigent circumstances. The learned single Judge opined that the authorities had considered the relevant aspects and therefore there was no scope for interfering the order passed by the respondent. The present appeal is directed against such order.

3.Learned counsel for the appellant has contended that at the time when the application was made, the appellant was not married and merely because after making the application she had married cannot be considered as a ground disentitling her claiming employment on compassionate ground. It was further indicated that the materials on record relating to indigent circumstances of the applicant had not been properly appreciated.

4.Learned counsel appearing for the 1st respondent Corporation has supported the order of the learned Single Judge.

5.In the present case, it is apparent that initial application had been made in 1994, which had been rejected in 1997. At that stage, the appellant, instead of filing writ petition challenging the said rejection, went on filing fresh applications and ultimately one such application having been rejected on 02.08.2001, the writ petition was filed in April, 2002.

6.From the narration of the events, it is apparent that cause of action for appellant arose not in 2001 but in 1997 and filing of writ petition in 2002 cannot at all be justified. Moreover, as has been observed by the Supreme Court in several decisions, appointment on compassionate ground is not a separate source of recruitment nor it can be considered as reserving certain posts for appointment on compassionate ground. The intention behind such provision is to enable the dependants of the deceased employee to tide over the immediate financial stringency on account of the death of the breadwinner in the family. In the present case, the death had occurred in the year 1990. The application was filed in 1994 and was initially rejected in 1997 and thereafter subsequent application was made in 2001 which was again rejected. To force the authorities to give employment on the so-called

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compassionate basis under such circumstances would be causing injustice to many other persons waiting for an opportunity to get employment. One cannot ignore the stark reality that there are thousands and thousands of persons coming from families wherein nobody is in employment. In other words, those persons are earning their livelihood on other sources, such as agriculture, manual labour or may be some other self-employment. Many of such persons are also living below the poverty line. When there is no provision for giving preference for employment to such candidates in whose family there is demise of the breadwinner, whether there is any justification for giving such privilege to the families of persons who were atleast lucky enough to get some job. In such a background, whether Court would be justified in giving direction for employment to some members of family, years after the death of the breadwinner in the family. It is apparent that the provisions relating to appointment on compassionate ground should be construed as if it is an exception and not the general rule.

7.It is no doubt true that in 2001 the application was rejected inter alia on the ground that the applicant had married in the meantime. The learned counsel for the appellant has brought to our notice the decision of a Division Bench, wherein the termination of such an employee who was unmarried at the time of making the application but had got married at the time of actual employment was successfully challenged in High Court. According to us, that question need not detain us in the present matter as in the present case the application for employment on compassionate ground has been rejected on other relevant consideration, more particularly consideration relating to lack of indigent circumstances of the family and also on ground of laches by the learned single Judge. It is apparent that the authorities were conscious of the fact that the appellant was engaged in some employment and was not in indigent circumstances. As rightly held by the learned Single Judge, the rejection was based on relevant circumstances and it was not for the High Court to substitute its own wisdom for that of the appropriate authority.

8.For the aforesaid reasons, we do not find any merit in this appeal, which is accordingly dismissed. No costs.

gb/dpk

sd/-
Asst.Registrar

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Sub Asst.Registrar

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To:

1.The Education Officer,
  Corporation of Chennai,
  Ripon Building,
  Chennai-600 003.

2.The Secretary,
  Government of Tamil Nadu,
  Department of Education,
  Fort St.George,
  Chennai-600 009.

+ 1 cc to Mr.V.Bharathidasan Advocate SR.NO.63144

CU(CO)
RD 23.10.07

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